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Attorneys for Defendants
GERBER PRODUCTS COMPANY
and NESTLÉ USA, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NATALIA BRUTON, individually and on behalf of all others similarly situated,

No. 5:12-CV-02412 LHK

Plaintiff,

**STIPULATION REGARDING
DISMISSAL WITH PREJUDICE OF
NESTLÉ USA, INC.; AND
[PROPOSED] ORDER**

GERBER PRODUCTS COMPANY,

Defendants.

STIPULATION

Plaintiff Natalia Bruton (“Plaintiff”), defendant Gerber Products Company (“Gerber”), and defendant Nestlé USA, Inc. (“NUSA”), by and through their attorneys of record, hereby enter into the following stipulation:

WHEREAS, Plaintiff, on September 21, 2012, filed its Amended Class Action and Representative Action Complaint for Damages, Equitable and Injunctive Relief (“First Amended Complaint”), naming NUSA as a defendant. (Dkt. No. 26.)

WHEREAS, Gerber and NUSA, on October 5, 2012, moved to dismiss the First Amended Complaint, including all of Plaintiff's claims against NUSA. (Dkt. No. 28.)

WHEREAS, on September 6, 2013, this Court granted the motion to dismiss Plaintiff's

1 claims against NUSA, with leave to amend. (Dkt. No. 57.) The Court's Order provided that
 2 "Should Bruton elect to file a Second Amended Complaint curing the deficiencies discussed
 3 herein, she shall do so within thirty (30) days of the date of this Order. Failure to meet the thirty-
 4 day deadline will result in dismissal with prejudice." (Dkt. No. 57 at 42.)

5 WHEREAS, on October 7, 2013, Plaintiff timely filed her Second Amended Class Action
 6 and Representative Action Complaint for Damages, Equitable and Injunctive Relief ("Second
 7 Amended Complaint"), which did not name NUSA as a defendant or seek any relief against it.
 8 (Dkt. No. 62.)

9 NOW, THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE:

10 (1) All claims alleged against NUSA in the First Amended Complaint are dismissed with
 11 prejudice;
 12 (2) NUSA is dismissed from this action with prejudice; and
 13 (3) Nothing in this Stipulation affects Plaintiff's claims against Gerber.

14 Dated: November 8, 2013 PRATT & ASSOCIATES
 15

16 By: /s/ Ben F. Pierce Gore
 17 Ben F. Pierce Gore
 18 Attorneys for Plaintiff
 NATALIA BRUTON

19 Dated: November 8, 2013 WHITE & CASE LLP
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21 By: /s/ Bryan A. Merryman
 22 Bryan A. Merryman
 23 Attorneys for Defendants
 24 GERBER PRODUCTS COMPANY
 and NESTLÉ USA, INC.

25 **ORDER**

26 PURSUANT TO STIPULATION, IT IS SO ORDERED.

27 Dated: November 11, 2013

28 
 29 HON. LUCY H. KOH
 30 United States District Judge